

081594,221



## UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/596,221	07/15/96	SILVESTRINI	T 251692002120

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EXAMINER

JONES, M

ART UNIT PAPER NUMBER

3308

11

DATE MAILED: 03/02/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

## OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 11-10-97
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 23-30 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 23-30 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 7
- ☒ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed May 7, 1997 has been received and considered.

### *Claim Rejections - 35 U.S.C. § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 23-25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reynolds (USPN 4,452,235). Reynolds discloses a split ring (see Figures 5-8, in particular) which is pliable, has a "configuration", includes at least two substantially different cross-sectional areas and effects correction of refractive disorders in the cornea.

4. Claims 23-30 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Silvestrini et al. (USPN 5,300,118). While the entire document is relevant, refer particularly to

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the embodiment shown in Figures 11A and 11B which shows a pliable intracorneal ring having a stepped configuration which effects correction of refractive disorders in the cornea. For claims 28-30, note that there will always be an axis extending between the two ends of the ring(s).

5. Claims 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Binder (USPN 4,634,418). Binder discloses a hydrogel seton for use as a glaucoma shunt. The seton is capable of implantation within the cornea. Note that it comprises a body with an axis between the two ends (and along the length of the body) and a stepped cross-sectional configuration (i.e., stepped to the same extent as the transitions between the three sections of the instant invention).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Smith (USPN 4,946,436) shows a glaucoma shunt which is capable of insertion into the cornea.

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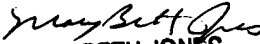
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Beth Jones whose telephone number is (703) 308-3400.

M.B. Jones

February 19, 1998

  
MARY BETH JONES  
PRIMARY EXAMINER  
GROUP 3300